UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/8147
3 November 1970
ENGLISH
ORIGINAL: ENGLISH/SPANISH

Twenty-fifth session
Agenda item 84

REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS TWENTY-SECOND SESSION

Report of the Sixth Committee

Rapporteur: Mr. Hisashi OWADA (Japan)

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I. INTRODUCTION

1. At its 1843rd plenary meeting, on 18 September 1970, the General Assembly included the item entitled "Report of the International Law Commission on the work of its twenty-second session" (item 84) in the agenda of its twenty-fifth session and allocated it to the Sixth Committee. The Sixth Committee considered the item at its 1186th to 1193rd, 1197th and 1200th meetings, held from 30 September to 8 October and on 13 and 14 October 1970.

2. At the 1186th meeting, on 30 September 1970, Mr. Taslim O. Elias, Chairman of the International Law Commission at its twenty-second session, introduced the Commission's report on the work of that session.[1/] At the 1193rd meeting, on 8 October 1970, he commented on the observations which had been made during the debate on the report.

3. The report of the International Law Commission on the work of its twenty-second session, which was before the Sixth Committee, is divided into five chapters entitled: I. Organization of the session; II. Relations between States and international organizations; III. Succession of States; IV. State responsibility; V. Other decisions and conclusions of the Commission.

4. At the 1200th meeting, on 14 October 1970, the Rapporteur of the Sixth Committee raised the question whether the Committee wished to include in its report to the General Assembly a summary of the views expressed during the debate on the item. Referring to paragraph (f) of the annex to General Assembly resolution 2292 (XXII) of 8 December 1967, the Rapporteur informed the Committee of the financial implications of the question. At the same meeting, the Committee decided that, in view of the nature of the subject-matter, the report should include a summary of the representative trends of opinion.

II. PROPOSAL AND AMENDMENTS

5. At the 1197th meeting, on 13 October 1970, the representative of Austria introduced a draft resolution (A/C.6/L.795) sponsored by Afghanistan, Algeria, Argentina, Austria, Brazil, Canada, Chile, Cyprus, Ecuador, Finland, Greece, Haiti, Jamaica, Kenya, Liberia, Madagascar, Mali, Mexico, Morocco, Niger, Nigeria,

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1/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 10 (A/8010/Rev.1).

Senegal, Sierra Leone, Sudan, Sweden, Syria, Uruguay, Venezuela and Yugoslavia.

The twenty-nine-Power draft resolution reads as follows:

"The General Assembly,

"Having considered the report of the International Law Commission on the work of its twenty-second session,

"Emphasizing the need for the further codification and progressive development of international law in order to make it a more effective means of implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations and to give increased importance to its role in relations among nations,

"Noting with satisfaction that at its twenty-second session the International Law Commission completed its provisional draft articles on relations between States and international organizations, continued the consideration of matters concerning the codification and progressive development of the international law relating to succession of States in respect of treaties and State responsibility and included in its programme of work the question of treaties concluded between States and international organizations or between two or more international organizations as recommended by General Assembly resolution 2501 (XXIV),

"Noting further that the International Law Commission has proposed to hold a fourteen-week session in 1971 in order to enable it to complete the second reading of the draft articles on relations between States and international organizations and the first reading of draft articles on succession of States in respect of treaties before the end of the term of office of its present members,

"Noting with appreciation that the United Nations Office at Geneva organized, during the twenty-second session of the International Law Commission, a sixth session of the Seminar on International Law,

"1. Takes note of the report of the International Law Commission on the work of its twenty-second session;

"2. Expresses its profound gratitude to the International Law Commission, on the occasion of the celebration of the twenty-fifth anniversary of the United Nations, for its outstanding contribution to the achievements of the Organization during this period, particularly through the preparation of drafts which have served as the basis for the adoption of important codification conventions, and expresses appreciation to the Commission for the valuable work it accomplished during its twenty-second session;

"3. Approves the programme and organization of the session planned by the International Law Commission for 1971, as well as its intention to bring up to date its long-term programme of work;

"4. Recommends that the International Law Commission should:

"(a) Continue its work on relations between States and international organizations, taking into account the views expressed at the twenty-third, twenty-fourth and twenty-fifth sessions of the General Assembly and the comments which may be submitted by Governments, with the object of presenting in 1971 a final draft on the topic;

"(b) Continue its work on succession of States, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) and 1902 (XVIII), with a view to completing in 1971 the first reading of draft articles on succession of States in respect of treaties and making progress in the consideration of succession of States in respect of matters other than treaties;

"(c) Continue its work on State responsibility, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII), 1902 (XVIII) and 2400 (XXIII);

"(d) Continue its study of the most-favoured-nation clause;

"(e) Continue consideration of the question of treaties concluded between States and international organizations or between two or more international organizations;

"5. Endorses the decision of the International Law Commission to request the Secretary-General to prepare new editions, brought up to date, of the publication entitled The Work of the International Law Commission and of the document entitled 'Summary of the practice of the Secretary-General as depositary of multilateral agreements';

"6. Expresses the wish that, in conjunction with future sessions of the International Law Commission, other seminars might be organized, which should continue to ensure the participation of an increasing number of nationals of developing countries, and supports the suggestion contained in paragraph 109 of the Commission's report concerning the use of Spanish as a working language of the Seminar;

"7. Requests the Secretary-General to forward to the International Law Commission the records of the discussion at the twenty-fifth session of the General Assembly on the report of the Commission."

6. The Union of Soviet Socialist Republics submitted amendments (A/C.6/L.797) to the draft resolution, as follows:

"1. Delete from the fourth paragraph of the preamble the words 'to hold a fourteen-week session in 1971 in order to enable it'.

"2. Add in the same paragraph, after 'to complete', the words 'at its session in 1971'.

"3. Delete paragraph 3 of the operative part, having in mind the possibility to elaborate on its basis a separate resolution.

"4. Add the following new sub-paragraph to operative paragraph 4:

'(f) Bring up to date as soon as possible its long-term programme of work'.

"5. Add at the end of operative paragraph 4 (c) the following words:

'and begin discussion of draft articles on the topic as from its next session'.

"6. Substitute for the words 'Continue consideration of the question', in operative sub-paragraph 4 (e), the words 'Consider the possibilities and time for initiating work on the question'.

"7. Delete from operative paragraph 5 the words 'new editions, brought up to date, of the publication entitled The Work of the International Law Commission and of'.

"8. Add the following new paragraph after the existing operative paragraph 4:

'5. Recommends that the International Law Commission should give unconditional priority to the completion of work on the draft articles on relations between States and international organizations.'"

7. The attention of the Committee was drawn to a note by the Secretariat (A/C.6/L.796) on the administrative and financial implications of the draft resolution.

III. DEBATE

8. The main trends of the Sixth Committee's debate on the agenda item dealt with in this report are summarized below, in five sections. The general comments on the work of the International Law Commission and on the promotion by the United Nations of the progressive development and codification of international law are summarized in section A. Sections B, C, D and E are devoted to the comments in chapters II, III, IV and V respectively of the report of the International Law Commission on the work of its twenty-second session, and each one bears the title of the chapter to which it relates.

A. General comments on the work of the International Law Commission and the promotion by the United Nations of the progressive development and codification of international law

9. The representatives who spoke in the debate congratulated the International Law Commission on the valuable work done at its twenty-second session and, in particular, on the progress made in the consideration of certain important topics in its programme of work, and expressed the view that its report constituted yet another important contribution by the Commission to the promotion by the United Nations of the progressive development and codification of international law.

10. Some representatives referred to the factors which, in their view, explained the success achieved by the International Law Commossion in fulfilling the task entrusted to it by the General Assembly, such as the excellent quality and objectivity of its drafts, and their balanced and realistic nature, the high level of technical competence of its members, its efforts to take into account the points of view of Governments and the needs and interests of the international community in general, and the relations established with the General Assembly and the Sixth Committee. The latter factor was considered to be of primordial importance for the codification work of the United Nations, which, by its very nature, called for supplementary efforts by the representatives of States in the Sixth Committee and by the experts who were members of the International Law Commission. Stress was laid on the need to strengthen and intensify those relations even further, so that the drafts prepared by the International Law Commission would have a better chance of being accepted by Governments. It was essential for Governments to supplement the juridical considerations which guided the International Law Commission, a subsidiary legal organ of the General Assembly, by expressing their own political, economic or administrative concerns, for otherwise there would be a risk that many conventions which had been carefully drawn up would not be observed or would not be acceded to except by a limited number of States.

11. Some representatives considered that it would be desirable to have more time, in order to be able to study in depth the annual report of the International Law Commission, so that the latter would have more accurate information on the positions of Governments. In that connexion, it was suggested that, within the context of the organization of the Sixth Committee's work, the traditional order

in which the agenda items were taken up should be reconsidered and that the examination of the report of the International Law Commission should be left until a later stage in the General Assembly session.

12. Several representatives reiterated their Governments' support for the work of progressive development and codification of international law undertaken by the United Nations. Some observed that that work helped to strengthen international legality and was thus a powerful means of maintaining international peace and security and intensifying peaceful co-operation among all States. Others said that the progressive development and codification of international law offered an opportunity to reformulate certain traditional concepts of international law in the light of current circumstances, needs and aspirations.

13. Some representatives drew attention to the role played by State practice in the formation of the rules of international law, and expressed the view that it would be desirable to seek to improve and complete existing sources of information on the practice. That would facilitate the progressive development and codification of international law promoted by the United Nations and, in particular, would make the drafts prepared by the International Law Commission more soundly and broadly based. In their view, the International Law Commission should examine the question in accordance with article 24 of its Statute; on the basis of its conclusions, steps could be taken to co-ordinate and promote national efforts to make information on State practice more accessible. Specifically, Member States could be asked to prepare collections and digests of their practice, as some were already doing, or merely to indicate the published sources of their practice. Similarly, it might be possible to examine the possibility of collecting in the United Nations Legislative Series (ST/LEG/SER.B/...), which now contained documentation concerning specific questions, information concerning State practice in a more general area. With regard to treaties, it was pointed out that the List of Treaty Collections (ST/LEG/5) published by the United Nations in 1956 was limited in scope and out of date. Stress was also laid on the urgent need to bring up to date the United Nations Treaty Series and for the Secretariat to make the special efforts necessary to reduce the growing delays in its publication.

14. Some representatives referred to the recent serious attacks on diplomatic agents and to the international tension they created, and stressed the need to

adopt measures that would put an end to that situation and adequately guarantee the protection and inviolability of such agents. Some of them commended the International Law Commission for having seen fit to reproduce in paragraph 11 of its report the texts of the letter dated 14 May 1970 from the President of the Security Council addressed to the Chairman of the International Law Commission, the letter dated 5 May 1970 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council, and the letter dated 12 June 1970 from the Chairman of the International Law Commission addressed to the President of the Security Council, and suggested that a statement on the problem of the protection and inviolability of diplomatic agents should be included in the working paper which the International Law Commission had requested the Secretary-General to prepare in connexion with the Commission's review of its long-term programme of work (see paragraph 113 below).

B. Relations between States and international organizations

1. Observations on questions relating to the draft articles on representatives of States to international organizations, as a whole

15. Many representatives expressed satisfaction that the International Law Commission had been able in 1970 to complete the first reading of its draft articles on representatives of States to international organizations, and congratulated the Commission and the Special Rapporteur on the topic, Mr. El-Erian on the results achieved. The sixty-six new draft articles on permanent observer missions (part III - articles 51 to 57) and on delegations to organs and to conferences (part IV - articles 78 to 116), together with the first twenty-one draft articles adopted in 1968 and the further twenty-nine adopted in 1969 on general provisions (part I - articles 1 to 5) and on permanent missions (part II - articles 6 to 50), constituted an excellent working basis for the second reading and gave good grounds for anticipating that the Commission would be able at its next session to adopt a final set of draft articles on the topic.

16. Most representatives who referred to the draft articles during the debate indicated that their comments were of a general and preliminary nature and that their Governments would study the draft carefully and submit detailed written observations thereon to the Commission within the specified time-limit.

(a) Scope of the draft

17. It was generally considered appropriate that the International Law Commission had limited the scope of the draft to international organizations of universal character (article 2) and had included in it provisions regulating the status of permanent missions of member States, permanent observer missions of non-member States, and delegations to organs of international organizations or to conferences convened by such organizations. Some representatives were nevertheless of the opinion that the Commission, when reviewing the draft, should try to supplement it with provisions regulating the status of certain categories of missions, delegations or persons that had for the time being been excluded from its scope. In that connexion, certain representatives enumerated the following: (a) permanent missions and permanent observer missions to international organizations not of a universal character; (b) permanent observer missions of States Members of the Organization; (c) non-permanent observer missions and temporary observers; (d) observers to organs and at conferences; (e) delegations to conferences convened by States; (f) representatives of national liberation movements, of peoples who were victims of colonialism or of groups fighting against racial discrimination or apartheid. It was also mentioned that the question of the juridical links between the host State and the meeting or conference convened in its territory should be examined. Lastly, interest was expressed in the fact that the International Law Commission was to examine the possible effects of exceptional situations on the representatives of States in international organizations.

(b) Structure of the draft

18. A number of delegations stressed that, at the second reading, the International Law Commission should harmonize the various provisions of the draft and try to formulate them as stringently and precisely as possible. In particular, it was stated that the present number of articles was excessive and should be reduced through appropriate use of the technique of "drafting by reference". It was also suggested that, despite the differences between the two categories of missions, some of the provisions relating to permanent missions and to permanent observer missions could perhaps be combined, in order to simplify the general form of the draft.

(c) Use of terms

19. It was observed that the provisions relating to the use of terms (articles 1, 51 and 78) could be properly formulated only in the light of the final form and structure of the draft as a whole. At the second reading, therefore, the International Law Commission should review those provisions and eliminate any lack of precision or duplication that might exist.

(d) Form of the work

20. The general opinion was that the draft constituted a suitable basis for a future convention on the subject. Some delegations, however, took the view that it would be preferable to prepare a code to serve as a model, rather than a general convention which, owing to the great variety of international organizations and their differing purposes and functions, would probably have to be complemented by specific agreements in individual cases. Moreover, a convention would raise a number of legal problems, such as its relationship to existing agreements on the subject (conventions on privileges and immunities of specific international organizations; headquarters agreements; etc.) and the question whether or not international organizations, on which the draft imposed certain obligations, could become parties to the convention.

(e) Relationship between the draft and other relevant rules and agreements

21. It was said that the International Law Commission had been right to include in the draft provisions (articles 3-5) safeguarding existing rules and agreements concerning particular international organizations and permitting the conclusion of new agreements in the future. However, certain representatives wondered what effect the adoption of a new set of rules would have on existing agreements on the subject, such as the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly, since the draft did not merely codify general principles but contained practical provisions similar to those included in those agreements. Although article 4 stated that the provisions of the draft would not affect other agreements in force, it should be remembered that in the present case, in contrast to the situation existing when the rules relating to consular relations had been codified, the agreements in question were mainly multilateral

agreements. Furthermore, if previous instruments would not be merged into the future instrument that was now being prepared, as seemed to be the case, it was to be feared that the final outcome of the codification effort would simply be the adoption of yet another convention which would be added to the long list of instruments already existing in that field.

(f) Consultations between the sending State, the host State and the organization

22. Some representatives expressly supported the International Law Commission's intention that article 50, on tripartite consultations among the sending State, the host State and the organization if any question arose between the sending State and the host State concerning the implementation of the draft articles, which was now included at the end of part II, should be transformed into a general provision applicable also to parts III and IV of the draft. In that connexion, it was said that the scope of the article should not be limited to questions arising between the sending State and the host State, and it was suggested that the existing text should be amended so that the article would begin with the words: "If any question arises among the sending State, the host State and the organization ...".

23. Other representatives said that the International Law Commission should seek formulas which, while guaranteeing the interests of the sending State and the independence of the organization, should also adequately protect the host State against possible abuses by persons enjoying a privileged position under the provisions of the draft. Even the protection of the host State in cases of criminal acts did not seem to be sufficiently guaranteed by the draft. Those representatives considered that provisions such as those contained in article 50 or articles 45, 76 and 112 were inadequate.

24. Some representatives said that the sending State should be obliged to withdraw from its mission or delegation any person who had interfered in the internal affairs of the host State, if the latter so requested. Others agreed with the view, provided that the organization concerned would determine whether interference in internal affairs had occurred. The commission of a grave and manifest violation of the criminal law of the host State and engaging in professional or commercial activities in that State were also mentioned as legitimate grounds for requesting the recall of a member of a delegation or mission.

2. Observations on part III (Permanent observer missions) and part IV (Delegations to organs and to conferences) of the draft articles

(a) General comments

25. Several representatives noted that the formulation of rules concerning the legal status and the facilities, privileges and immunities of "permanent observer missions" and of "delegations to organs and to conferences", in the context of the draft articles on representatives of States to international organizations, would fill a gap which existed at present in general international law.

26. Certain representatives expressed doubt about the need for a general codification of the status of "permanent observer missions", believing that existing practice and international courtesy resolved the question satisfactorily in each specific case. However, many representatives who took part in the debate stressed the particular importance of that codification. The need for it was demonstrated by the very fact that the Charter of the United Nations, the Headquarters Agreement and General Assembly resolution 257 (III) of 3 December 1948 contained no provisions on permanent observer missions of non-member States. In that connexion, it was recalled that the Secretary-General had stated in the introduction to his annual report on the work of the Organization covering the period 16 June 1965 to 15 June 1966 that "all countries should be encouraged and enabled, if they wish to do so, to follow the work of the Organization more closely".[2/] In the opinion of the latter representatives, the codification of the legal status of "permanent observer missions" would promote international co-operation, ensure a more efficient functioning of international organizations and might be useful to solve some of the problems posed by the "micro-States".

27. Similarly, it was pointed out by other representatives that the formulation of rules concerning "permanent observer missions" was consistent with the principle of universality and represented an important step towards the elimination of certain discriminatory practices. Pointing out that the Charter was based on universality or that universality was one of the primary objectives of the United Nations, those representatives stated that the establishment of a suitable legal status for "permanent observer missions" would promote the achievement of the principles and purposes of the Organization. In that connexion, other representatives rejected

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2/ Ibid., Twenty-first Session, Supplement No. 1A (A/6301/Add.1), p. 14.

the unqualified statement that the Charter was based on the principle of universality; universality was a goal that should be attained through the fulfilment of the criteria and requirements laid down in Article 4 of the Charter.

28. Some representatives, emphasizing the need to ensure the effective performance of their functions by "permanent observer missions" and "delegations to organs and conferences", endorsed the solutions proposed by the International Law Commission to determine the privileges and immunities of such missions and delegations. Those representatives considered that, even if they were established by non-member States, "permanent observer missions" were of a representative and permanent character and that their privileges and immunities should therefore be generally the same as those accorded to "permanent missions", subject to any minor changes which the special characteristics of the functions of "permanent observer missions" might make it advisable to introduce in individual provisions. They also shared the opinion that the privileges and immunities of "delegations to organs and to conferences" should, in view of the representative character of such delegations and the temporary nature of their tasks, be formulated in the light of the privileges and immunities of "special missions" and, after any adjustments necessitated by their temporary nature, by reference to the law of international organizations. It was pointed out that the alternative suggested by some - the privileges and immunities would be limited to those which were strictly "necessary for the performance of the functions" - was not sufficiently precise, would lead to inequalities of treatment and would open the way to subjective interpretations of the relevant provisions. In the opinion of those representatives, the Commission had struck a proper balance between the preservation of the interests of the host State and the need to protect relations between "permanent observer missions" and organizations and the freedom of operation of "delegations to organs and to conferences".

29. Other representatives supported in principle the approach adopted by the International Law Commission to the question of the privileges and immunities of "permanent observer missions" and "delegations to organs and to conferences". They felt, however, that the representative character of those missions and delegations and the functions which they performed justified granting them the

full range of diplomatic immunities and privileges, without discrimination and irrespective of their permanent or temporary nature. In the view of those representatives, therefore, it would be advisable for the International Law Commission to follow the 1961 Vienna Convention on Diplomatic Relations more closely and to remove from the draft article any elements which did not conform to contemporary diplomatic law.

30. Other representatives felt that the objective criterion of "functional necessity", embodied in Article 105 of the Charter of the United Nations, rather than theories based on the "representative character" or on unjustified parallels, should be the point of departure for delimiting the privileges and immunities of "permanent observer missions" and "delegations to organs and conferences". There was no legal or historical basis for the view that every mission or delegation was automatically entitled, because it was acting on behalf of a State, to the full range of diplomatic privileges and immunities. "Permanent observer missions" did not have the same representative capacity as "diplomatic missions" or the same functions and responsibilities as the "permanent missions" of Member States. Moreover, "delegations or organs and conferences" did not have the same functions as did "special missions", nor did they have the same character.

31. Those representatives expressed reservations about the International Law Commission's approach to the matter. In their opinion, the draft articles relating to the privileges and immunities of "permanent observer missions" and of "delegations to organs and to conferences" were based too closely on diplomatic law, tended without justification to identify "permanent observer missions" with "permanent missions" and "delegations to organs and conferences" with "special missions", and departed from contemporary practice and existing agreements. The Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies should be regarded, as a general rule, as a maximum and no privileges and immunities which were not really necessary should be asked for. In their present form the draft articles could produce the anomalous situation in which "delegations to organs and conferences" of lesser importance would be accorded a higher scale of privileges and immunities than delegations to United Nations organs or conferences convened under its auspices. Those representatives concluded by expressing the

hope that the Commission would review the draft articles in question in the light of those observations, for it was essential to avoid the future convention being ratified by only a small number of States.

32. In support of the observations mentioned in the preceding paragraph, it was stated that limiting privileges and immunities was the best way of ensuring their application in practice; that it was desirable to avoid imposing excessively heavy administrative burdens on the host State; that parliaments and public opinion were opposed to broadening the categories of persons enjoying privileged treatment; that "special missions" could be sent to another State only with the latter's consent and that the number of persons enjoying privileges and immunities by virtue of such missions was much smaller than the number of persons constituting "delegations to organs or to conferences"; and that an unnecessarily high level of privileges and immunities would make States reluctant to invite international organizations or conferences to establish themselves or meet in their territory. In response to the latter argument, it was said that no State was obliged to permit an organization to establish its headquarters or an organ or conference to meet in its territory, but if it did it should accept the obligation to accord the appropriate privileges and immunities to the missions and delegations concerned.

33. It was also said that although the Commission based its draft as a whole on the "functional necessity", it departed from that criterion with regard to some specific provisions. In this connexion attention was drawn to the difference between multilateral diplomacy and bilateral diplomacy. In the case of the latter, the host State could protect itself by various measures such as the declaration of persona non grata, reciprocity, etc. The interests at stake were much more complex and much less complementary in multilateral diplomacy, where it could happen that the host State did not recognize the sending State.

34. Certain representatives said they had no objection to the scope of the privileges and immunities conferred in the draft articles, provided that they were applied only to organizations in the United Nations family and to others of similar importance. In their view, it was necessary to find a more precise definition of the term "international organization of universal character".

35. Finally, attention was drawn to the question of the application of the privileges and immunities provided for in the draft articles to the large numbers

of regional or technical conferences convened by international organizations of a universal character; the view was expressed that it would be advisable to limit the application of the draft articles to the more important conferences and organs of such organizations.

(b) Comments on specific provisions

Part III: Permanent observer missions to international organizations

Definition of the term "permanent observer mission" (article 51, sub-paragraph (a))

36. The definition of the term "permanent observer mission" contained in article 51, sub-paragraph (a), mentions the "representative character" of such missions. During the debate, stress was laid on the importance of that question with regard to the general structure of part III of the project and, in particular, the determination of the scope of the facilities, privileges and immunities which should be accorded to permanent observer missions. In that connexion, certain representatives referred to paragraph 2 of the commentary on article 53, which stated that a permanent observer mission did not represent the sending State "in" the organization but "at" the organization.

37. Some representatives said that permanent observer missions did indeed have a "representative character" and that the reference to it should therefore be retained. Others considered that that reference should be deleted, since an observer observed but did not represent.

38. It was also said that if the term "representation" was taken in the technical sense, it was clear that permanent observer missions were not representative, since in order to be representative in an international organization a State had to be a member of it. By definition, an observer did not participate in the organization's decisions and did not, in principle, have the right to take part in its debates. However, if the term "representation" was given the wider meaning which it had in ordinary usage and if emphasis was laid on the link which existed between the sending State and its permanent observer mission, it might be possible to speak of "representation", because the mission acted on behalf of the State which had appointed it. The sending State was not a member of the Organization, but the permanent observer mission, in so far as it acted within the limits of its functions on behalf of the sending State, could be considered representative of that State.

39. Lastly, it was pointed out that in article 51, sub-paragraph (a), it would be useful to insert the words ", as defined in article 1," after the words "international organization", in view of the considerations outlined in paragraph 1 of the commentary on that article.

Establishment of permanent observer missions (article 52)

40. The provisions of the article, as well as the principles on which they were based, were interpreted in different ways. In the light of those interpretations, some representatives thought that the provisions should be retained unchanged, others considered they should be redrafted in order to eliminate the existing ambiguity, and others proposed to amend the article, while a fourth group stated that, perhaps the best course might be to consider deleting it altogether.

41. Several representatives considered that the article should be retained as drafted by the International Law Commission, because it recognized the need to enable States which were not members of international organizations to follow their work which was of interest to the international community as a whole, while safeguarding the essential autonomy of those organizations and respect for their rules and practice. Those representatives felt that non-member States did not have an unconditional and absolute right to establish permanent observer missions, for that right was subject to and conditioned by the rules of practice of the organization concerned. The will of the organization could not be ignored. Some of them added that if the organization had no relevant rules or practice, the establishment of such missions would be regulated by the provisions of the future convention to be drawn up on the basis of the draft articles. Certain representatives throught that it would be advisable for paragraph 2 of the commentary on the article to specify that the rule provided for in the article presupposed that the organization concerned was of universal character.

42. Other representatives stressed that the establishment of a permanent observer mission by a non-member State was a question whose practical solution should continue to depend on the rules and general practice of the organization concerned or on specific agreements concluded for that purpose. Principles such as the sovereign equality of States or universality could not prevail over the rules and practice of international organizations in that sphere. If no such rules and practices existed, the establishment of permanent observer missions should remain

subject to an agreement between the sending State and the host State or the international organization concerned. The future convention was not the proper instrument to grant non-member States an absolute and unreserved right to establish permanent observer missions. Since the article in its entire form had been interpreted in other ways, those representatives considered that the International Law Commission should redraft it, bearing in mind the considerations they had mentioned. It was also suggested that paragraph 3 of the commentary should be redrafted in order to bring it into line with the text of the article.

43. Other representatives considered that the Commission should give the article a broader legal basis more in keeping with the principles of sovereign equality of States and universality. They proposed that the phrase "in accordance with the rules or practice of the Organization" should be deleted from the article. In their view, the article should state clearly that non-member States had the right to establish permanent observer missions in order to perform the functions mentioned in article 53 of the draft. The existing wording was unduly restrictive, created the possibility of discrimination between States in contradiction with the other provisions of the draft, did not take fully into account the considerations formulated in the commentary on the article, did not facilitate the implementation of the principle of universality or, generally speaking, the purposes and principles of international organizations of universal character, and was inconsistent with the aforementioned statement of the Secretary-General (see paragraph 26 above). It was also pointed out that in any case the "rules or practice" referred to in the article could not be considered valid unless they conformed to the general principles of the Charter of the United Nations. Reference to them would merely create difficulties in the interpretation of the provisions of the article.

44. It was also said that the existing wording of the article was unsatisfactory because the phrase "in accordance with the rules or practice of the Organization" could give rise to interpretations which assimilated the requirements for the establishment of permanent observer missions to the conditions and procedures provided for in Article 4 of the Charter for the admission of States to the United Nations. Since the main purpose of permanent observer missions was precisely to enable non-member States to follow closely the work of organizations of universal character, a restrictive interpretation of that kind should be precluded by redrafting the article in a more suitable way.

45. The view was also expressed that the International Law Commission was not supposed to deal with the question of the "right" of non-member States to follow closely the activities of international organizations of universal character in the context of its draft articles on representatives of States to international organizations. The situation of permanent observer missions could only be improved through a better interpretation of the statutes of international organizations.

46. Lastly, some representatives questioned the need for the article and said that the Commission should re-examine the question of retaining it. The deletion of the article would affect neither the symmetry nor the legal content of the rest of the draft. In that connexion, it was also pointed out that the wording of the article raised the difficult question of determining what entities were entitled to be regarded as States. It was also suggested that the main point at issue was the right of States members of an organization to maintain control over the establishment of permanent observer missions; the efficacy of and the need for the article should be considered from that standpoint.

Functions of a permanent observer mission (article 53)

47. Certain representatives questioned the desirability of attempting an enumeration of the functions of a permanent observer mission. Each observer mission constituted a special case and it would therefore be inadvisable to lay down guidelines which would inevitably tend to introduce an element of rigidity in practice. Certain representatives observed that permanent observer missions maintained the necessary liaison between the sending State and the organization but did not represent that State in the organization (concerning the representative character of permanent observer missions, see paragraphs 36 to 38 above). Representatives of non-member States could sometimes be invited to participate in meetings of organs or conferences on an equal footing with member States, but in such cases the representatives of non-member States fell into the category of "delegations to organs and to conferences" and not into that of "permanent observer missions". It was also observed that, strictly speaking, "negotiation" was not one of the functions of an observer.

Appointment of the members of the permanent observer mission (article 55)

48. Certain representatives agreed with the principle of the freedom of choice by the sending State of the members of the permanent observer mission. Others took the view that the article did not give adequate protection to the host State.

Offices of permanent observer missions (article 63)

49. Some doubts were expressed about paragraph 2 of the article. International practice had not yet crystallized sufficiently to warrant the inclusion of such provision in the draft articles. Certain representatives said that it was inadvisable to give the impression of encouraging States to establish offices of their permanent observer missions in the territory of a State other than the host State because such situations gave rise to problems, particularly where privileges and immunities were involved. On the other hand, it was argued that to make such establishment conditional on the prior consent of the host State might cause special difficulties for newly independent countries which still lacked an extensive network of embassies and missions.

Use of /flag and/ emblem (article 64)

50. There were differences of opinion concerning the right of the permanent observer mission to use the flag of the sending State. Certain representatives took the view that reference to the use of the flag should be deleted because it sufficed to grant such missions the right to use the emblem. Others, however, suggested that the reference to the flag should be retained, on the ground that a permanent observer mission had the right to use both the emblem and the flag of the sending State.

Privileges and immunities of the permanent observer mission (article 67)

51. This article refers back to articles 25, 26, 27, 29 and 38, paragraph 1 (a), relating to "permanent missions". Some representatives made the general comment that the privileges and immunities thus granted to "permanent observer missions" might be too extensive, and suggested that the International Law Commission should reconsider the question.

52. Other representatives emphasized that the inviolability of the premises of the mission, as provided for in draft article 25, must be respected and ensured. These representatives criticized the present wording of paragraph 1 of the latter article and expressed the view that, even in case of disaster, no derogation from the inviolability of the premises should be allowed without the permission of the head of the mission concerned. A further comment was that the words at the end of paragraph 1 of article 25 ("and only in the event that it has not been possible to obtain the express consent of the permanent representative") were too restrictive of the presumption of consent in case of fire or other disaster that seriously endangered public safety provided for in that paragraph; it was suggested those words should be replaced by a sentence based on the criterion of "the reasonableness of efforts to obtain the consent of the permanent representative". [In connexion with the inviolability of premises, see also comments on article 94 in paragraph 68 below.]

Freedom of movement (article 68) and personal privileges and immunities (article 69)

53. Article 68 refers back to article 28 in the part of the draft which relates to "permanent missions", and article 69 refers back to articles 30, 31, 32, 35, 36, 37, 38, paragraphs 1 (b) and 2, and 40 in the same part. The general comment was made that the International Law Commission should reconsider whether all the privileges and immunities thus granted were really necessary in the case of "permanent observer missions" and their members.

54. With regard to article 30 on personal inviolability, it was stated that consideration should be given to the insertion of a second paragraph, reading: "This principle does not exclude in respect of the permanent representative either measures of self-defence or, in exceptional circumstances, measures to prevent him from committing serious crimes or offences".

55. In reference to the categories of persons enjoying privileges and immunities under the terms of article 40, paragraph 1 (members of the family of the permanent representative and members of the family of the diplomatic staff of the permanent mission forming part of their respective households), it was observed that the phrase "if they are not nationals of the host State" should be replaced by "if they are not nationals of or permanently resident in the host State".

Waiver of immunity and settlement of civil claims (article 71)

56. This article refers back to articles 33 and 34 relating to "permanent missions". The view was expressed that, where a waiver of immunity could not be obtained because it would impede the performance of the functions of the "permanent observer mission", the sending State should use its best endeavours to bring about a just settlement of the claim.

Duration of privileges and immunities (article 73)

57. This article refers back to article 42 relating to "permanent missions". In connexion with the notifications mentioned in article 42, paragraph 1, the view was expressed that mention should be made only of notification to the host State "by the Organization".

Non-discrimination (article 75)

58. Some representatives agreed with the inclusion of this article in the draft noting that it was based on the principle of sovereign equality of States proclaimed in the "Declaration relating to the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" adopted by the General Assembly, on 24 October 1970, at the closing meeting of the commemorative session on the occasion of the twenty-fifth anniversary of the United Nations.

Conduct of the permanent observer mission and its members (article 76)

59. This article refers back to articles 45 and 46 relating to "permanent missions". It was argued that the provision concerning respect for the laws and regulations of the host State (article 45) did not give adequate protection to that State, since it could not be established whether the person concerned had committed a "grave and manifest violation" so long as the sending State did not waive his immunity.

60. The view was also expressed that a provision concerning compulsory insurance against third-party risks arising from the use, in the host State, of vehicles owned by permanent observer missions or their members should be included in this article.

End of functions (article 77)

61. This article refers back to articles 47, 48 and 49 relating to "permanent missions". It was stated that article 48, concerning facilities for departure, imposed an unrealistic duty on the host State. The last sentence of that article should be replaced by the following: "It shall, in case of emergency, facilitate in every possible way the obtaining of means of transport for them, and for such of their personal effects as is reasonable under the circumstances, to leave the territory".

Part IV: Delegations of States to organs and to conferences

62. Observations similar to those mentioned above in connexion with articles 55, 71 and 75 in part III of the draft were made on article 84 (Appointment of the members of the delegation), article 101 (Waiver of immunity) and article 111 (Non-discrimination), respectively. In addition, there were the observations summarized below.

Derogation from the present part (article 79) and conference rules of procedure (article 80)

63. It was noted with approval that these articles introduced an element of flexibility into the draft and prevented unduly rigid application of its provisions.

Size of the delegation (article 82)

64. Certain representatives referred approvingly to this article. Others did not consider it really necessary and suggested its deletion. It was also stated that the article did not give adequate protection to the host State.

Principle of single representation (article 83)

65. Some representatives expressed reservations concerning the desirability of the article and its present wording. The principle of single representation should not be formulated too categorically, but provision should be made for deviation from it in certain circumstances. At a time of increasing interdependence, it seemed wrong to prevent joint representation in some cases by providing that a delegation to an organ or to a conference might represent only one State. It

should be borne in mind that joint representation facilitated the participation of small and developing countries, if only for financial reasons, and that there existed international agreements concerning the representation of one country by another. The following solutions were proposed: (a) the insertion at the beginning of the article of the words "as a rule"; (b) the addition at the end of the article of the words "unless the rules and practice of the organ or conference otherwise provide"; (c) the deletion of the article, leaving the solution of the question to the practice of the international organization concerned.

Full powers to represent the State in the conclusion of treaties (article 88)

66. It was observed that a representative to an organ or to a conference should be in possession of full powers for the purpose of signing a treaty and that paragraph 3 of the article was therefore redundant.

Status of the Head of State and persons of high rank (article 91)

67. The International Law Commission was commended for having included in the draft this provision, which is based on article 21 of the 1969 Convention on Special Missions.

Inviolability of the premises (article 94)

68. Some representatives urged that paragraph 1 of this article should be brought into line with the corresponding provision of the 1961 Vienna Convention on Diplomatic Relations. They expressed serious reservations with regard to the last sentence of that paragraph. In their view, the sentence should be deleted and they argued that the provision set out in it imposed limitations on the principle of inviolability of the premises that might result in practice in its virtual negation; the legal prerogative of inviolability was subject "in case of fire or other disaster that seriously endangers public safety" to the subjective evaluation of the host State in detriment of the rights of the sending State. Apart from the fact that it opened the way to abuses, the provision was ambiguously worded and might consequently lead to misunderstandings and disputes. It was noted that the words "that seriously endangers public safety" referred only to "other disaster", from which it would appear that "in case of fire" local authorities could enter the premises of the delegation even if there was no serious

danger to public safety. Furthermore, the words "and only in the event that it has not been possible to obtain the express consent of the head of the delegation or of the head of the permanent diplomatic mission" could be interpreted to mean that local authorities were allowed to enter the premises of the delegation even if the head of the delegation or of the permanent diplomatic mission expressly refused to admit them because in his view there was no serious danger to public safety. (In connexion with this question, see observations on article 67 in paragraphs 51-52 above.)

Immunity from jurisdiction (article 100)

69. Some representatives expressed a preference for alternative A as being broader and being based directly on the corresponding article of the 1969 Convention on Special Missions. Others stated that they favoured alternative B because they considered that it set out all the safeguards that were needed for the proper functioning of delegations or because they felt that the future convention must be acceptable to the largest possible number of States. Other representatives expressly reserved their positions for the time being.

Respect for the laws and regulations of the host State (article 112)

70. Some representatives were of the opinion that the article did not fully guarantee the freedom of delegations' members, since on occasion they might have to perform functions of the delegation outside the premises where the organ or conference was meeting or outside the premises of the delegation.

71. Observations similar to those reported in connexion with article 76 were made (see paragraphs 59 and 60 above) with regard to protection of the host State generally and to accidents caused by vehicles owned by the delegation or its members.

C. Succession of States

1. Observations on the topic as a whole

72. Several representatives stressed the need for the International Law Commission to continue to give priority to the study of the various aspects of the succession of States, in view of the importance and usefulness of the progressive development

and codification of the topic to all States, and particularly the new States. Congratulations were offered to the Commission on the progress it had made during its last session in studying the substantive questions raised by succession in respect of treaties, as well as to Sir Humphrey Waldock, the Special Rapporteur on that aspect of the topic, and Mr. Bedjaoui, the Special Rapporteur on "succession in respect of matters other than treaties", on the new reports presented.

2. Observations on "succession in respect of treaties"

73. Noting that on the basis of the reports presented by Sir Humphrey Waldock, the Special Rapporteur, the International Law Commission had reached almost unanimous agreement on the approach to the question and the fundamental principles on which its codification should be based, a number of representatives expressed the view that the Commission was now in a position to prepare a set of draft articles on succession in respect of treaties in the near future. The hope was expressed that the first reading of the draft articles would be concluded in the course of the Commission's next session. Some representatives felt that it was premature to make any comments on the relevant part of the Commission's report. Others, however, put forward the preliminary observations summarized below.

(a) Succession in respect of treaties and law of treaties

74. The conclusion of the International Law Commission that succession in respect of treaties should be dealt with as a particular topic within the framework of the law of treaties met with almost general approval. Some representatives stressed the need for the 1969 Vienna Convention on the Law of Treaties to be taken specially into account. However, some doubts were expressed as to the appropriateness of the conclusion referred to, on the ground that succession was a branch of international law separate from the law of treaties. It was also commented that it might be useful to undertake a parallel study of succession in respect of treaties and succession in respect of matters other than treaties. Parallel consideration of the various problems of succession would help to crystallize the general legal rules which were to be applied in all situations involving the problem of succession. That modus operandi would facilitate the definition of a general theory of succession based on the practice of States which had recently attained independence as a result of the decolonization process.

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(b) Specific problems of new States

75. A number of representatives emphasized that succession in respect of treaties was of practical importance and particular interest to the new States which had recently gained their independence. They stressed the need to protect the political and economic independence of those States, and, consequently, to ensure that the rules codified should be based on the fundamental principles of contemporary international law incorporated in the United Nations Charter. Those rules should conform to principles such as those of equal rights and self-determination of peoples, the sovereign equality of States and permanent sovereignty over natural resources. In their view, it was inappropriate to speak of the transfer of sovereignty, since that implied the devolution of obligations assumed under unfair and abusive treaties, concluded by the former colonial Powers with third States in disregard of the interests of the administered Territory, which never was a part of the territory of the colonial Powers.

76. Certain representatives considered that in view of the general approach to the subject of succession in respect of treaties followed in the preliminary reports submitted by the Special Rapporteur it was no longer necessary to deal with problems arising out of decolonization in a separate chapter.

(c) Origins and types of succession

77. It was observed that the rules regulating succession varied considerably according to the origins and types of the succession. In cases of succession resulting from decolonization, for example, progressive development was more important than codification because many of the traditional rules were inapplicable.

78. Some representatives urged that the draft articles should look towards the future and cover all the possible causes of succession, for example the formation and dissolution of unions of States and confederations, dismemberment and, in general, all the causes of succession which could occur after accession to independence. Others considered that consideration of questions relating to protectorates, mandates and trusteeships would be an anachronism and divert the attention of the Commission from really important questions.

(d) Distinction between "multilateral treaties" and "bilateral treaties"

79. It was felt that it was necessary to draw a distinction between succession to multilateral treaties and succession to bilateral treaties. The former were, generally speaking, susceptible of uniform treatment. Bilateral treaties, on the other hand, gave rise to varied and complex situations, so that the rules relating to succession to bilateral treaties must be drafted with much greater flexibility and care.

(e) Definition of the term "succession"

80. Some representatives approved the fact that the Special Rapporteur, in the relevant article of his second report (article 1 (a)) had given up the notion of succession accepted in municipal law, which involved the devolution of rights and obligations, in favour of a definition which was more neutral and appropriate to international law: "the replacement of one State by another in the sovereignty of territory or in the competence to conclude treaties with respect to territory". These representatives considered that such a definition would help to dissipate the confusion created by the analogy between the ideas of succession in international law and in municipal law. It was added that the definition should be expanded by the inclusion of a reference to the subjective element deriving from respect for the principle of self-determination; that would unequivocally indicate that the legal consequences of the replacement of State sovereignty or of the competence to conclude treaties with respect to a given territory were not automatic but dependent on the wishes of the people of the territory.

81. Other representatives, however, expressed some doubts as to the appropriateness of the definition proposed and felt that the matter should be studied in greater depth. It had to be remembered that the concept of succession was not necessarily associated with that of territory. It was also observed that the definition was not broad enough, since it did not cover the case of a revolutionary Government which did not consider itself bound by all the treaties concluded by the Government preceding it. Although properly speaking that was a case of succession of Governments, it was to be hoped that the International Law Commission would provide some clarification in that respect.

82. Lastly, it was commented that the way in which the question of the definition of the term "succession" was resolved would to a great extent determine the scope of the future draft articles.

(f) Definition of the expression "new State"

83. Certain representatives considered the definition of the expression "new State" given by the Special Rapporteur in his third report (article 1 (e)) to be unsatisfactory, and agreed on the need to reconsider it with a view to an eventual modification of the definition. To define a "new State" as "a succession where a territory which previously formed part of an existing State has become an independent State" was not historically correct, since many new States had recovered independence, and not acquired it. In addition, all new States which had emerged as a result of decolonization had never formed part of the metropolitan territory. It was also stated that the definition did not seem appropriate to other causes of succession, such as unions of States.

(g) Area of territory passing from one State to another

84. Doubt was expressed as to whether a provision on this question should appear in the context of the introductory articles, and it was felt that in its present form the provision proposed by the Special Rapporteur (article 2) might raise difficulties in regard to problems of sovereignty and territorial integrity.

(h) Agreements for the devolution of treaty obligations and rights

85. Some representatives shared the view that an agreement concluded between the predecessor State and the successor State for the devolution of treaty obligations and rights upon a succession could not be considered a source of treaty relations between the successor State and third States. It was pointed out that the contrary approach would be incompatible with articles 34 and 36 of the 1969 Vienna Convention on the Law of Treaties and with customary international law. It was added that the Commission's commentary on the provision, as eventually formulated, should try to clarify the nature of devolution agreements and of the obligations which they involved.

86. Certain representatives observed that devolution agreements provided a basis on which, with the acquiescence of the third States concerned, a novation of treaty relations could occur in cases where the latter would not otherwise devolve. Such agreements, like the unilateral declarations referred to below, were conducive to a measure of continuity that was advantageous both to the new

State and to third States. The new State would suffer most from the abrupt termination on independence of a large part of the treaty régime previously applicable to its territory.

(i) Unilateral declarations

87. Some representatives likewise considered it correct to say that a general unilateral declaration by the successor State regarding the maintenance in force of treaties previously applied to its territory by the predecessor State could not by itself create treaty relations between the successor State and a third State. Such treaty relations could be based only on a rule of international law or on specific treaty provisions. These representatives therefore considered acceptable the basic principle enunciated in the provision proposed by the Special Rapporteur (article 4). It was stated in this connexion that general unilateral declarations constituted a better legal basis for the maintenance in force of treaties than any presumption of continuity, but that the real problem was what effect they might by themselves produce in regard to the maintenance in force of a given treaty.

(j) General rule regarding a new State's obligations in respect of its predecessor's treaties

88. Support was expressed for the provision on this point proposed by the Special Rapporteur (article 6), which reads as follows: "Subject to the provisions of the present articles, a new State is not bound by any treaty by reason only of the fact that the treaty was concluded by its predecessor and was in force in respect of its territory at the date of the succession. Nor is it under any obligation to become a party to such treaty".

89. Many representatives supported the fundamental principle enunciated in this general rule. A new State was not bound by its predecessor's treaties and was under no obligation to become a party to such treaties, unless it expressly agreed to do so. Contemporary positive international law did not sanction the so-called "theory of continuity" in respect of treaties, nor could the existence of a rule in favour of continuity on the basis of prevailing State practice be presumed. The principle of sovereign equality of States and the need to protect new States against any interference in their domestic affairs required that any idea of "automatic"

succession to treaties concluded by the former administering Powers should be rejected. In addition, a presumption of continuity, highly desirable as it might appear in certain cases, would conflict with the principle of self-determination laid down in the United Nations Charter.

90. Some representatives stated that their support for the principle enunciated in the general rule did not mean that they approved of the extreme theory of the "clean slate". The Commission should now give thorough consideration to the various categories of treaties, especially "dispositive", "territorial" or "localized" treaties, with a view to determining what exceptions to the general rule were pertinent.

91. Certain representatives considered it impossible to assert that international law laid down absolute rules on the matter, and they consequently rejected any extreme theory. State practice varied considerably from country to country, and very few new States systematically rejected the treaties concluded by their predecessors. Absolute application of the proposed general rule would create difficulties, because the question of succession to rights was interrelated with that of succession to obligations. The principle of self-determination could not be disregarded, but it must be borne in mind that international law subjected that principle to limitations based on the need to protect the general interests of the international community and of third States. The provision enunciated in the proposed general rule could be acceptable only if it was clearly established that the successor State was bound by certain categories of treaties. These representatives reserved their final positions on the question until the Commission had considered the nature and scope of exceptions to the general rule, particularly with regard to "dispositive", "territorial" or "localized" treaties.

92. Other representatives also stressed the advantages of continuity in treaty relations. A proper balance should be struck between the continuity of obligations and the necessity of not holding new States to duties which they had not themselves undertaken. The Commission should therefore carefully examine the actual practice of States, so that the rules which it formulated would have due regard to the interests of the new States, the predecessor State and third States.

93. Various views were expressed on the scope of possible exceptions to the general rule. For instance, certain representatives felt that "territorial", "dispositive" or "localized" treaties should in principle constitute one of the

exceptions. Others reserved their positions with regard to "dispositive" or "localized" treaties. Another view expressed was that the general rule applied especially to "territorial" or "dispositive" treaties. In this connexion, it was stated that the International Law Commission should avoid giving legal endorsement to situations created by old treaties relating to colonial boundaries, which had been drawn with the strategic and economic interests of the former administering Powers in mind, since that would conflict with the universally accepted principle of self-determination and would be contrary to General Assembly resolutions 1514 (XV) and 1654 (XVI). In the case of such treaties, succession could not take place without the freely expressed consent of all the parties concerned. The new State was entitled to reclaim what it had previously held as a right, particularly if the revindication was based on its people's right to self-determination. It was also stated that the general rule should apply to so-called devolution treaties and that new States should not be able to evade the provisions of treaties which enunciated rules of jus cogens.

94. Lastly, the view was expressed that consideration should be given to some special situations, such as the problem of the implications of the legal nexus that was established in the case of an agreement entered into between two entities which were not fully sovereign and which subsequently at different times gained their sovereignty and did not repudiate the agreement.

(k) Right of a new State to notify its succession in respect of multilateral treaties

95. Some representatives expressed complete agreement with the provision proposed by the Special Rapporteur (article 7), which had been supported by most members of the Commission. Some of them considered that the right of a new State to notify its succession in respect of multilateral treaties was based on a positive rule of customary law. Others took the view that, if a rule of customary law did exist on the subject, that rule could not be based on the purely administrative practice of depositaries.

96. It was suggested that it might be desirable to set a time-limit within which the new State must notify its intention of considering itself a party to multilateral treaties that had applied to its territory prior to independence. The view was expressed that it was not advisable to make the time-limit too short, since a study of the relevant instruments was a long and delicate task for new States.

(1) Settlement of disputes

97. It was stated that the settlement of disputes arising from succession in respect of treaties should be entrusted to the International Court of Justice so as to ensure proper interpretation and application of the rules being codified.

D. State responsibility

98. A number of representatives expressed satisfaction at the fact that the International Law Commission had continued to make progress in laying down the general lines to be followed in the progressive development and codification of the complex topic of State responsibility and in establishing a broad initial basis of agreement which would permit the task to be continued with the greatest possible prospects of success. The Special Rapporteur, Mr. Ago, was congratulated on his second report, entitled "The origin of international responsibility", in which, after dealing with certain questions of method, he discussed the principle of the internationally wrongful act as a source of responsibility, the conditions for the existence of an internationally wrongful act, and the question of what was described as the "capacity" of States to commit internationally wrongful acts. The general conclusions reached by the Commission on the basis of the report were considered broadly acceptable.

99. Some representatives stressed that consideration of the question should proceed more rapidly than had thus far been the case. They believed that the reason why the codification of State responsibility was progressing so slowly was that not everyone was aware of the importance of the subject in the present international political context. The question was in point of fact extremely urgent, because it was linked to the maintenance of international peace and security. Those representatives considered that special attention should be paid to State responsibility for aggression, the use of armed force, colonial repression, racial discrimination and non-compliance with other obligations set forth in the United Nations Charter.

100. Other representatives supported the approach adopted by the Commission, under which the general rules defining the responsibility of States would be defined at the outset, since the violation of any international legal rule could in fact entail responsibility. That would also facilitate the eventual consideration of the special questions arising in connexion with responsibility for violations of

specific rules of international law, such as those relating to the maintenance of international peace and security.

101. Certain representatives were pleased that the Special Rapporteur had taken as a premise the existence of an international legal order which imposed obligations on subjects of international law which were members of the international community. Whenever a State violated an international obligation, it committed a wrongful act for which it was accountable to the international community as it was juridically constituted. The wrongful nature of the act derived from the violation of the obligations set forth in the legal rule, and not from the violation of the rule, as was often stated. It was the non-fulfilment of the obligation - and sometimes the exercise of rights beyond the bounds of the rule - which made the act wrongful. Certain representatives felt that a purely theoretical study based on initial assumptions would be extremely dangerous, and criticized the tendency in the report to allow States not directly injured by a wrongful act to implicate other States on grounds of the international responsibility of the latter.

102. It was considered desirable that there should be an analysis of the subjective and objective elements which must be present for an internationally wrongful act to exist. It was further stated that the Commission should take up the question of "abuse of right" in due course.

103. Certain representatives felt that it would have been preferable to base the study of State responsibility on the "theory of risk", which rested on the objective notion of material or moral injury. In their view, that would have represented a step forward in the development of law from the economic and social point of view and would have avoided the complications arising from the preference given to responsibility for the wrongful act, in view of the difficulty involved in drawing up a comprehensive list of duties, the non-fulfilment of which determined the existence of a wrongful act.

104. Some representatives stressed that, in addition to responsibility for wrongful acts, it was necessary to study responsibility for lawful acts. Some agreed that the Commission could consider the latter question separately at a later stage in its work. Others felt that the two questions should be dealt with simultaneously. It was also observed that the two forms of responsibility could be dealt with in parallel but separate studies. Some representatives felt that

responsibility for lawful acts should cover all types of activities giving rise to such responsibility, such as the pollution of the oceans, and should not be restricted only to some of them (outer space and nuclear activities). Other representatives said that it would be useful to consider a third category of acts - such as pollution of the atmosphere or the oceans with radioactive substances or deadly gases - which, because of their dangerous nature, fell half way between lawful and wrongful acts.

105. With regard to questions of method, a number of representatives stressed the need for a careful and flexible approach in seeking practical solutions which could meet with general approval, and favoured the essentially inductive method proposed by the Special Rapporteur. In that connexion, some representatives were pleased that the Special Rapporteur had been requested in the early stages of the work to preface each draft article with a full explanation of the reasons which had led him to propose a particular provision and an indication of the precedents offered by practice and jurisprudence, together with the various doctrinal views. Other representatives agreed with the Commission that the question of State responsibility was one where the progressive development of international law could play a particularly important part. It was noted in that regard that it might be appropriate to send a questionnaire to Governments in order to give the Commission assistance in applying the method of progressive development.

106. Certain representatives felt that the Spanish expression "hecho ilícito" should be replaced by "acto ilícito". The word "hecho" was extremely vague and imprecise. The expression "acto ilícito", on the other hand, referred to any behaviour which was objectively contrary to law and could apply both to acts of commission and acts of omission.

107. It was considered appropriate that the Commission had decided to consider, in a first phase, the origin of international responsibility and, in a subsequent phase, the content of that responsibility. However, some doubts were expressed as to the possibility of keeping the two phases entirely separate. It was also agreed that questions relating to the responsibility of subjects of international law other than States should be left to a later stage. Lastly, it was stated that there was need to codify the rules for the judicial settlement of disputes and for the implementation of compensation procedures for internationally wrongful acts.

E. Other decisions and conclusion of the Commission

1. Celebration of the twenty-fifth anniversary of the United Nations

108. Attention was drawn to the part played by the progressive development and codification of international law in the creation of favourable conditions for the attainment of the fundamental objectives of the United Nations and the outstanding contribution of the International Law Commission, within its terms of reference, to the attainment of those objectives, particularly through the preparation of drafts which have served as the basis for the adoption of important codification conventions; on the occasion of the celebration of the twenty-fifth anniversary of the United Nations, deep gratitude was expressed to the Commission for that contribution (see paragraph 2 of the draft resolution recommended by the Sixth Committee in paragraph 126 below).

2. The most-favoured-nation clause

109. Some representatives recalled that their countries were particularly interested in the study of the most-favoured-nation clause. The question of the more-favoured-nation clause was of special importance for the developing countries, and the codification of the legal norms relating to it would help to encourage international trade and economic co-operation and promote the development of international trade law. The Special Rapporteur, Mr. Ustor, was congratulated on his second report and hope was expressed that the Commission would make progress in its consideration of the topic at its next sessions.

3. The question of treaties concluded between States and international organizations or between two or more international organizations

110. Some representatives expressed approval of the arrangements made by the Commission with a view to considering the preliminary problems which the study of that new item entailed, in pursuance of General Assembly resolution 2501 (XXIV) of 12 November 1969. In particular, they approved of the decision to refer consideration of those preliminary problems to a sub-committee. Certain representatives drew attention to the increasing significance in international life of the role of treaties concluded between States and international organizations or between two or more international organizations, citing as an example the agreements between States and the International Atomic Energy Agency

concerning the use of atomic energy for peaceful purposes. It was also observed that the importance of those types of agreements had been enhanced by the entry into force of the Treaty on the Non-Proliferation of Nuclear Weapons. The hope was expressed that the Commission would receive maximum co-operation from all the principal international organizations and particularly from their legal departments to assist it in its consideration of the item.

4. The bringing up to date of the Commission's long-term programme of work

111. All the representatives who referred to this question expressed approval of the Commission's intention of bringing up to date in 1971 its long-term programme of work, taking into account the General Assembly recommendations and the international community's current needs, and discarding those topics on the 1949 list which are no longer suitable for treatment. Some representatives said that they hoped that the Commission would submit to the General Assembly at its twenty-sixth session a revised long-term programme of work. In that connexion, the opinion was expressed that it might also be useful to establish an order of priority for the examination of the various items included in the programme.

112. Pointing out that the world situation had changed considerably since the 1949 list had been drawn up, some representatives considered that the Commission should revise the programme with a view to the future by taking into account the needs of States and of the international community in the coming years and should concentrate on the topics of international law which could best contribute to the development of international relations in conformity with the United Nations Charter.

113. Lastly, it was suggested that it would be useful to study such questions as various aspects of humanitarian law, aerial piracy,[3/] protection of members of

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3/ At its twenty-fourth session, the General Assembly adopted resolution 2551 (XXIV), on 12 December 1969, entitled "Forcible diversion of civil aircraft in flight". At its current session the General Assembly allocated to the Sixth Committee the agenda item entitled "Aerial hijacking or interference with civil air travel" (agenda item 99).

diplomatic and consular missions,[4] international watercourses[5] and historic bays.[6] It was also stated that consideration should be given to methods for the peaceful settlement of legal disputes with a view to ensuring that progress regarding the substance of the rules of international law was matched by progress in the procedural field.[7] Because codifying norms could be applied or interpreted differently, it was essential to develop appropriate means for settling disputes to which their application or interpretation might give rise.

5. Organization of future work

114. Those representatives who spoke supported the view that the International Law Commission should proceed at its next session to the second reading of the draft articles on representatives of States to international organizations, with the object of presenting in 1971 to the General Assembly a final draft on the question of relations between States and international organizations, and to complete at that session the first reading of the draft articles on succession in respect of treaties. It was also agreed that the Commission should begin its discussion of the first series of draft articles on State responsibility and continue consideration of succession in respect of matters other than treaties and the most-favoured nation clause and of preliminary problems relating to the question of treaties concluded between States and international organizations or between two or more international organizations. This view was reflected in operative paragraph 4 of the twenty-nine Power draft resolution (A/C.6/L.795).

4/ See paragraph 14 above.

5/ In 1959, the General Assembly adopted resolution 1401 (XIV) on "Preliminary studies on the legal problems relating to the utilization and use of international rivers". At its current session the General Assembly allocated to the Sixth Committee the agenda item entitled "Progressive development and codification of the rules of international law relating to international watercourses" (agenda item 91).

6/ In accordance with General Assembly resolution 1453 (XIV) of 7 December 1959, the International Law Commission included in its programme of work the item entitled "Régime of historic waters, including historic bays".

7/ At its current session the General Assembly allocated to the Sixth Committee the item entitled "Review of the role of the International Court of Justice" (agenda item 96).

115. Various opinions were expressed with regard to the convening of a fourteen-week session for 1971, as mentioned in paragraphs 86 and 104 of the report of the International Law Commission. Most representatives who took part in the discussion believed that the General Assembly should give the Commission the facilities which the latter deemed necessary for the completion of the above-outlined programme of work, in particular the second reading of the draft articles on relations between States and international organizations and the first reading of draft articles on succession of States in respect of treaties before the end of the term of office of its present members. Those representatives therefore supported the fourth preambular paragraph and paragraph 3 of the draft resolution. Other representatives reiterated their countries' traditional backing for the Commission's work on the progressive development and codification of international law but could not support the proposal for an extended session in view of the additional burden it would place upon the heavy budget of the United Nations. They held that improved organization of its methods of work would enable the Commission successfully to complete the anticipated work programme within the normal ten-week session, particularly since the only task requiring immediate action was the conclusion of the draft articles on representatives of States to international organizations. Those representatives supported paragraph 3 of the USSR amendment (A/C.6/L.797). Lastly, other representatives expressed reservations regarding the adoption of measures which, like the proposed extension of the normal session, were of questionable utility and entailed increased expenditure for the United Nations. Some representatives in the latter group ultimately accepted the view of the majority, while others refrained from taking a position on the matter.

6. Preparation of a new edition of the publication "The Work of the International Law Commission" and of the document entitled "Summary of the practice of the Secretary-General as depositary of multilateral agreements"

116. Divergent views were expressed regarding the International Law Commission's request to the Secretary-General to prepare a new edition of the publication entitled The Work of the International Law Commission,[8/] with a view to incorporating therein a summary of the last developments of the work of the

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8/ United Nations publication, Sales No.: 67.V.4.

Commission as well as the texts of new drafts prepared by the Commission and codification conventions recently adopted. Some representatives considered that, although the publication was useful, it was not really necessary, and said that they could not support that proposal in view of the increased expenditure it entailed for the United Nations (see paragraph 7 of amendment A/C.6/L.797). Some representatives did not take a position on the matter. Others favoured the preparation of the new edition and supported operative paragraph 5 of the draft resolution.

117. There was unreserved support for the preparation of a new edition, brought up to date, of the document entitled "Summary of the practice of the Secretary-General as depositary of multilateral agreements" (ST/LEG/7), published in 1959, in view of the reasons indicated by the International Law Commission in paragraph 91 of its report (see paragraph 5 of the draft resolution recommended by the Sixth Committee in paragraph 126 below).

7. Relations with the International Court of Justice

118. A number of representatives welcomed the fact that the contacts established between the International Court of Justice and the International Law Commission continued, thereby contributing to better mutual understanding of the concerns and activities of those bodies.

8. Co-operation with other bodies

119. Various representatives noted with satisfaction the continued maintenance and development of relations established several years earlier between the International Law Commission and the Asian-African Legal Consultative Committee, the European Committee on Legal Co-operation and the Inter-American Juridical Committee. Stressing the importance of those regional juridical bodies' activities for the progressive development and codification of international law by the United Nations, some representatives felt that existing co-operation should be enhanced further in order to develop an even more effective exchange of information and experience between the Commission and those bodies.

120. A number of representatives noted that their countries had recently become full members of the Asian-African Legal Consultative Committee. Others pointed out that, since the Charter of the Organization of American States had been revised,

the Inter-American Juridical Committee had become one of its principal organs. Lastly, other representatives said that the extensive programme of work of the European Committee on Legal Co-operation included various aspects of public international law of particular relevance to the current work of the International Law Commission, and recalled that the European Committee had recently made a study of privileges and immunities of international organizations and persons connected with them, which had been communicated to the International Law Commission.

9. Seminar on international law

121. Those representatives who referred to this item expressed their satisfaction with the success of the sixth session of the Seminar on International Law and expressed their gratitude to the members of the International Law Commission, professors and members of the Secretariat who had participated in it and to the United Nations Office at Geneva for the way in which the new session of the Seminar had been organized, in particular for the fact that it had entailed no costs for the United Nations. It was also considered very appropriate that the 1970 Seminar had been designated the Gilberto Amado session in a tribute to the memory of the recently deceased Brazilian Ambassador, a former member of the International Law Commission, who had been an illustrious international figure, and it was suggested that the possibility should be considered of naming a series of sessions after him or of establishing a permanent conference in his name within the Seminar.

122. Many representatives pointed out that the Seminar enabled students of international law and young officials responsible in their own countries for matters relating to international law to familiarize themselves with the Commission's work and to have valuable exchanges of views with its members, thus fostering a better appreciation and wider dissemination of international law. The special importance of the Seminar for participants of developing countries was stressed. A number of representatives thanked the States which had provided scholarships for participants from developing countries and expressed the hope that similar assistance would be offered for future sessions of the Seminar.

123. The recommendation that future sessions of the Seminar should be held in conjunction with the Commission's forthcoming sessions met with general approval. Four representatives announced that their Governments had provided or planned to provide a scholarship for the 1971 session of the Seminar. A great number of

representatives were in favour of the suggestion made during the debate to the effect that those organizing the Seminar should do everything possible within the framework of the present arrangement, to enable the young jurists who participated in the work of the Sixth Committee, especially those from the developing countries, to be given the opportunity to take part in the sessions of the Seminar, thereby helping to strengthen the close bond which existed between the Sixth Committee and the International Law Commission; others said that participation in the Seminar should be as wide as possible in order to assist all those wishing to acquire a deeper knowledge of international law. Lastly, the Committee supported the suggestion contained in paragraph 109 of the report of the International Law Commission that Spanish should be made a working language of the Seminar on a footing with French and English (see paragraph 6 of the draft resolution recommended by the Sixth Committee in paragraph 126 below).

IV. VOTING

124. At its 1200th meeting, on 14 October 1970, the Sixth Committee voted on the twenty-nine-Power draft resolution (A/C.6/L.795) and on the third and seventh amendments (A/C.6/L.797) submitted by the Union of Soviet Socialist Republics, as follows:

(a) By a roll-call vote of 60 to 12, with 24 abstentions, it rejected the third amendment. The voting was as follows:

In favour: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, Hungary, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania.

Against: Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burundi, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Democratic Republic of), Cyprus, Denmark, Ecuador, El Salvador, Finland, Ghana, Greece, Guatemala, Haiti, India, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lesotho, Liberia, Madagascar, Malaysia, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Rwanda, Senegal, Sierra Leone, Singapore, Spain, Sweden, Thailand, Togo, Uganda, United States of America, Uruguay, Venezuela, Yugoslavia, Zambia.

Abstaining: Afghanistan, Burma, Cambodia, Gabon, Guyana, Indonesia, Iran, Kuwait, Laos, Libya, Mali, People's Republic of the Congo, Philippines, Portugal, Saudi Arabia, South Africa, Southern Yemen, Sudan, Syria, Trinidad and Tobago, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, Yemen.

(b) By a roll-call vote of 28 to 16, with 52 abstentions, it rejected the seventh amendment. The voting was as follows:

In favour: Algeria, Australia, Belgium, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, Hungary, Iran, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania.

Against: Argentina, Austria, Brazil, Canada, Central African Republic, Chile, China, Colombia, Denmark, Ecuador, Finland, Greece, Haiti, Israel, Kenya, Madagascar, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Senegal, Sierra Leone, Sweden, Thailand, Yugoslavia.

Abstaining: Afghanistan, Bolivia, Burma, Burundi, Cambodia, Cameroon, Ceylon, Congo (Democratic Republic of), Cyprus, El Salvador, Gabon, Ghana, Guatemala, Guyana, India, Indonesia, Italy, Ivory Coast, Jamaica, Japan, Kuwait, Laos, Lesotho, Liberia, Libya, Malaysia, Mali, Mexico, Nepal, Pakistan, People's Republic of the Congo, Philippines, Portugal, Rwanda, Saudi Arabia, Singapore, South Africa, Southern Yemen, Spain, Sudan, Syria, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen, Zambia.

(c) By a roll-call vote of 81 to 4, with 11 abstentions, it adopted the draft resolution (see paragraph 126 below). The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Cambodia, Cameroon, Canada, Central African Republic, Ceylon, Chile, China, Colombia,

Congo (Democratic Republic of), Cyprus, Denmark, Ecuador, El Salvador, Finland, Ghana, Greece, Guatemala, Guyana, Haiti, India, Indonesia, Iran, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Kuwait, Laos, Lesotho, Liberia, Libya, Madagascar, Malaysia, Mali, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, People's Republic of the Congo, Philippines, Romania, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Southern Yemen, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Against: Byelorussian Soviet Socialist Republic, Mongolia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Bulgaria, Burundi, Cuba, Czechoslovakia, France, Gabon, Hungary, Poland, Portugal, Rwanda, United Republic of Tanzania.

125. At the same meeting, the representatives of Yemen, Trinidad and Tobago, the Union of Soviet Socialist Republics, Zambia, the Byelorussian Soviet Socialist Republic, Italy, France, Australia, Romania, the Ukrainian Soviet Socialist Republic, the United Republic of Tanzania, Hungary, Poland, Iran, Bulgaria, Gabon, Portugal, Mongolia, Czechoslovakia, Canada and Algeria made statements in explanation of vote.

V. RECOMMENDATION OF THE SIXTH COMMITTEE

126. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission

The General Assembly,

Having considered the report of the International Law Commission on the work of its twenty-second session,9/

9/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 10 (A/8010/Rev.1).

Emphasizing the need for the further codification and progressive development of international law in order to make it a more effective means of implementing the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations and to give increased importance to its role in relations among nations,

Noting with satisfaction that at its twenty-second session the International Law Commission completed its provisional draft articles on relations between States and international organizations, continued the consideration of matters concerning the codification and progressive development of the international law relating to succession of States in respect of treaties and State responsibility and included in its programme of work the question of treaties concluded between States and international organizations or between two or more international organizations, as recommended by General Assembly resolution 2501 (XXIV) of 12 November 1969,

Noting further that the International Law Commission has proposed to hold a fourteen-week session in 1971 in order to enable it to complete the second reading of the draft articles on relations between States and international organizations and the first reading of draft articles on succession of States in respect of treaties before the end of the term of office of its present members,

Noting with appreciation that the United Nations Office at Geneva organized, during the twenty-second session of the International Law Commission, a sixth session of the Seminar on International Law,

1. Takes note of the report of the International Law Commission on the work of its twenty-second session;

2. Expresses its profound gratitude to the International Law Commission, on the occasion of the celebration of the twenty-fifth anniversary of the United Nations, for its outstanding contribution to the achievements of the Organization during this period, particularly through the preparation of drafts which have served as the basis for the adoption of important codification conventions, and expresses its appreciation to the Commission for the valuable work it accomplished during its twenty-second session;

3. Approves the programme and organization of the session, planned by the International Law Commission for 1971, as well as its intention to bring up to date its long-term programme of work;

4. Recommends that the International Law Commission should:

(a) Continue its work on relations between States and international organizations, taking into account the views expressed at the twenty-third,

twenty-fourth and twenty-fifth sessions of the General Assembly and the comments which may be submitted by Governments, with the object of presenting in 1971 a final draft on the topic;

(b) Continue its work on succession of States, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) of 20 November 1962 and 1902 (XVIII) of 18 November 1963, with a view to completing in 1971 the first reading of draft articles on succession of States in respect of treaties and making progress in the consideration of succession of States in respect of matters other than treaties;

(c) Continue its work on State responsibility, taking into account the views and considerations referred to in General Assembly resolutions 1765 (XVII) of 20 November 1962, 1902 (XVIII) of 18 November 1963 and 2400 (XXIII) of 11 December 1968;

(d) Continue its study of the most-favoured-nation clause;

(e) Continue its consideration of the question of treaties concluded between States and international organizations or between two or more international organizations;

5. Endorses the decision of the International Law Commission to request the Secretary-General to prepare new editions, brought up to date, of the publication entitled The Work of the International Law Commission[10/] and of the document entitled "Summary of the practice of the Secretary-General as depositary of multilateral agreements";[11/]

6. Expresses the wish that, in conjunction with future sessions of the International Law Commission, other seminars might be organized, which should continue to ensure the participation of an increasing number of nationals of developing countries, and supports the suggestion contained in the Commission's report concerning the use of Spanish as a working language of the Seminar on International Law;[12/]

7. Requests the Secretary-General to forward to the International Law Commission the records of the discussion on the report of the Commission at the twenty-fifth session of the General Assembly.

10/ United Nations publication, Sales No.: 67.V.4.

11/ ST/LEG/7.

12/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 10 (A/8010/Rev.1), para. 109.